

**LAND AUTHORITY GOVERNING BOARD
AGENDA ITEM SUMMARY**

Meeting Date: May 18, 2005

Division: Land Authority

Bulk Item: Yes ☐ No ☒

Staff Contact Person: Mark Rosch

Agenda Item Wording: Approval to purchase Key Largo acreage (RE 90830-000000) for conservation.

Item Background: This acquisition is proposed pursuant to BOCC Resolution 39-2004, which calls for the Land Authority to purchase natural areas consisting of at least two acres of upland native habitat located outside the Conservation and Natural Area. The subject property consists of 3.8 total acres of land and baybottom, of which approximately 3.2 acres is above mean high water and approximately 2.9 acres is tropical hardwood hammock.

Following initial work to remove solid waste and exotic vegetation from the site, land stewardship needs for this property are anticipated to be low.

The Executive Director has executed the Land Authority's standard purchase contract for this transaction, with revisions negotiated by the Seller and approved by the Land Authority Attorney and the County Attorney. The agenda packet spreadsheet lists the legal description, purchase price, and estimated closing costs.

Advisory Committee Action: On April 27, 2005 the Committee voted 4/0 to approve this item.

Previous Governing Board Action: Sitting as the BOCC, the Board approved Resolution 39-2004 on January 21, 2004.

Contract/Agreement Changes: N/A

Staff Recommendation: Approval

Total Cost: \$513,218.50

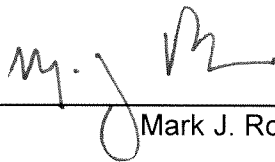
Budgeted: Yes ☒ No ☐

Cost to Land Authority: \$513,218.50

Source of Funds: Land Authority
(Tourist Impact Tax and State Park Surcharge)

Approved By: Attorney ☒ County Land Steward ☒

Executive Director Approval:


Mark J. Rosch

Documentation: Included: ☒

To Follow: ☐

Not Required: ☐

Disposition: _____

Agenda Item _____

PURCHASE CONTRACTS
05/18/05

<u>Property</u>	<u>Purchase Price</u>	<u>Envr. Audit, Survey, Appraisals or Clean-up</u>	<u>Title Insurance</u>	<u>Attorney Fee</u>	<u>Recording Fee</u>	<u>Acquisition Total</u>
Key Largo Acreage RE#00090830-000000 (Ettinger)	\$500,000.00	\$10,000.00	\$2,700.00	\$500.00	\$18.50	\$513,218.50

AGREEMENT FOR THE PURCHASE OF LANDS

THIS AGREEMENT is made and entered into this 6th day of April, 2005, is by and between

Lenny Ettinger and Jackie Ettinger

hereinafter style the Seller(s), for themselves, their heirs, executors, administrators, successors and assigns, and the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY (hereinafter, "Land Authority") acting by and through the Executive Director of the LAND AUTHORITY.

WITNESSETH:

1. Seller(s) agree to sell to the LAND AUTHORITY certain lands upon the terms and conditions hereinafter set forth, and for the price of **\$500,000.00** for all of the lands and other interests, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the Seller's rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the County of Monroe, State of Florida, more particularly described as follows; to-wit:

**Acreage parcel at MM 98 on Key Largo
(see Attachment A for metes and bounds description)
RE# 00090830-000000**

2. The Seller(s) agree that they have full right, power and authority to convey, and that they will convey to the LAND AUTHORITY the fee simple title together with legal and practical access thereto clear, free and unencumbered, except subject to the following easements or reservations:

Existing easements for canals, ditches, flumes, pipelines, railroads, public highways and roads, telephone, telegraph, power transmission lines and public utilities.

The LAND AUTHORITY, at the LAND AUTHORITY'S expense, within the time allowed to deliver evidence of title and to examine same, may have the real property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the real property or that improvements located thereon encroach on setback lines, easements, lands of others, or violate any restrictions, contract covenants, or applicable governmental regulations, the same shall constitute a title defect.

Seller(s) shall convey a marketable title subject only to the aforementioned liens, encumbrances, exceptions or qualification set forth herein. Marketable title shall be determined according to applicable title standards adopted by authority of the Florida Bar and in accordance with law. The LAND AUTHORITY shall have sixty (60) days from the effective date in which to examine title. If title is found defective, the LAND AUTHORITY shall, within this specified time period, notify Seller(s) in writing specifying defect(s). If the defect(s) render title unmarketable the Seller(s) will have one hundred twenty (120) days from receipt of notice within which to remove the defect(s), failing which the LAND AUTHORITY shall have the option of either accepting the title as it then is or rescinding the contract herein; thereupon the LAND AUTHORITY and the Seller(s) shall release one another of all further obligations under this Agreement. The Seller(s) will, if title is found unmarketable, use diligent effort to correct defect(s) in title within the time provided therefore.

3. The Seller(s) further agree not to do, or suffer others to do, any act by which the value or title to said lands may be diminished or encumbered. It is further agreed that any loss or damage

occurring prior to the vesting of satisfactory title in the LAND AUTHORITY by reasons of the unauthorized cutting or removal of products therefrom, or because of fire, shall be borne by the Seller(s); and that, in the event any such loss or damage occurs, the LAND AUTHORITY may refuse, without liability, to accept conveyance of said lands, or it may elect to accept conveyance upon an equitable adjustment of the purchase price.

4. The Seller(s) further agree that during the period covered by this instrument officers and accredited agents of the LAND AUTHORITY shall have at all proper times the unrestricted right and privilege to enter upon said lands for all proper and lawful purposes, including examination of said lands and the resources upon them. In the event the LAND AUTHORITY's inspections damage said lands, the LAND AUTHORITY shall repair said damage. Further, the LAND AUTHORITY shall hold harmless and indemnify the Seller(s) from any cause of action by the LAND AUTHORITY or the LAND AUTHORITY'S agents resulting from said inspections or entering upon the lands on behalf of the LAND AUTHORITY. ~~The Seller(s) hereby waive their rights to any and all claims against the LAND AUTHORITY or Monroe County associated with, or arising from ownership of, said lands and this waiver shall survive closing.~~
5. The Seller(s) will execute and deliver upon demand of the proper officials and agents of the LAND AUTHORITY a good and sufficient deed of warranty conveying to the LAND AUTHORITY a safe title to the said lands of such character as to be satisfactory to the legal counsel of the LAND AUTHORITY and said deed shall provide that the use, occupation and operation of the rights-of-way, easements and reservations retained therein, shall be subordinate to and subject to such rules and regulations as may be prescribed by the LAND AUTHORITY governing the use, occupation, protection and administration of lands. The LAND AUTHORITY shall prepare the deed and closing papers for approval by the Seller(s)' attorney and said approval shall not be unreasonably withheld.
6. In consideration whereof the LAND AUTHORITY agrees that it will purchase all of said lands and other interests at the price of \$500,000.00. The LAND AUTHORITY further agrees that, after the preparation, execution, delivery and recordation of the deed, and after the legal counsel of the LAND AUTHORITY shall have approved the title thus vested in the LAND AUTHORITY, it will cause to be paid to the Seller(s) the purchase price by a check drawn on the account of the LAND AUTHORITY. The LAND AUTHORITY shall pay the following expenses associated with the conveyance of the property: deed recording fees, settlement fees, abstract fees, title examination fees, the Buyer's attorney's fees, and title insurance, as well as the prorata share of prepaid real property taxes allocable to the period subsequent to the vesting of title in the LAND AUTHORITY, or the effective date of possession of such real property by the same, whichever is earlier. The Seller(s) shall pay the expenses of documentary stamps to be affixed to the deed. Full possession of the premises shall pass to the LAND AUTHORITY as of the date payment is made to the Seller(s) subject only to the reservations stated in Section 2 above.
7. It is mutually agreed that an abstract, title insurance policy or other evidence of title to the property herein contracted to be sold, satisfactory to the legal counsel of the LAND AUTHORITY will be obtained by the LAND AUTHORITY at its expense. The Seller(s) expressly agree herein to furnish to the LAND AUTHORITY any documents in Seller(s)'s possession establishing evidence of title including, but not limited to, abstracts, title commitments, title policies and opinions of title.
8. It shall be the obligation of the Seller(s) to pay all taxes prorated through the closing date and assessments outstanding as liens at the date title vests of record in the LAND AUTHORITY, whether or not such taxes and assessments are then due and payable.



9. It is mutually understood and agreed that notice of acceptance of this agreement shall be given to the Seller(s) by mail addressed to the Seller(s) at the following address:

**9321 NW 48th Doral Terrace
Miami, FL 33178-2015**

and shall be effective upon date of mailing and shall be binding upon all of the Seller(s) without sending a separate notice to each, except as such obligation may be affected by the provisions of paragraph 6 hereof.

10. The property shall be delivered at closing free of any tenant or occupancy whatsoever.
11. The effective date of this agreement shall be that date when the last one of the Seller(s) and the LAND AUTHORITY has signed this agreement.
12. The LAND AUTHORITY shall have sixty (60) days from the effective date of this agreement in which to conduct an environmental site assessment to determine the existence and extent, if any, of any hazardous materials on the property. For the purposes of this agreement, "hazardous materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any environmental law. If the environmental site assessment identifies the presence of hazardous materials on the property, the LAND AUTHORITY shall, within this specified time period, notify Seller(s) in writing of the findings. The Seller(s) will then have one hundred twenty (120) days from receipt of notice within which to pursue, at Seller(s)' sole cost and expense, any assessment, clean-up, and monitoring of the Property necessary to bring the Property into full compliance with any and all applicable federal, state or local laws, failing which the LAND AUTHORITY shall have the option of either accepting the property as it then is or rescinding the contract herein; thereupon the LAND AUTHORITY and the Seller(s) shall release one another of all further obligations under this Agreement.
13. Seller(s) shall have the right to elect in writing to exchange the property for one or more properties in a transaction intending to qualify as a tax-deferred exchange under the provisions of Section 1031(a) of the Internal Revenue Code of the United States. The LAND AUTHORITY agrees to cooperate with Seller(s) and take all reasonable actions necessary, including the execution of appropriate documentation, to permit Seller(s) to exchange the property for one or more properties pursuant to the provisions of Section 1031(a) of the Code, provided that the exchange does not delay the closing on the property as provided for in this Agreement.
14. In the event of any controversy, claim or dispute arising under this Agreement, the parties agree to the jurisdiction and venue of the federal and state courts in Monroe County, Florida and the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including appeals.

15. If the Seller(s) wish to proceed with this transaction, the Seller(s) have until **April 8, 2005** to sign and return this contract to the LAND AUTHORITY. Notwithstanding any provision of this Agreement to the contrary, this transaction shall close on or before 60 days from the effective date and said closing is contingent upon approval by the LAND AUTHORITY Governing Board, failing which the LAND AUTHORITY and the Seller(s) shall release one another of all further obligations under this Agreement.

IN WITNESS WHEREOF, the Seller(s) and the LAND AUTHORITY have hereunto signed their names and affixed their respective seals.

Seller/ Lenny Ettinger

Lenny Ettinger 4/6/05 091155904 305-790-4747
Signature Date Social Security Number Phone Number

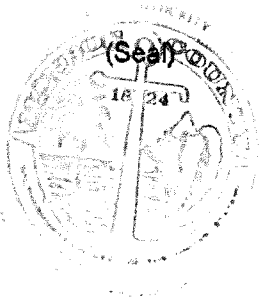
Seller/ Jackie Ettinger

Jackie Ettinger 4/6/05 271-32-0874 305-773-7128
Signature Date Social Security Number Phone Number

The MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, acting by and through its EXECUTIVE DIRECTOR, has executed this agreement on behalf of the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY this 8th day of April, 2005.

MONROE COUNTY COMPREHENSIVE
PLAN LAND AUTHORITY

Mark J. Rosch
Mark J. Rosch, Executive Director

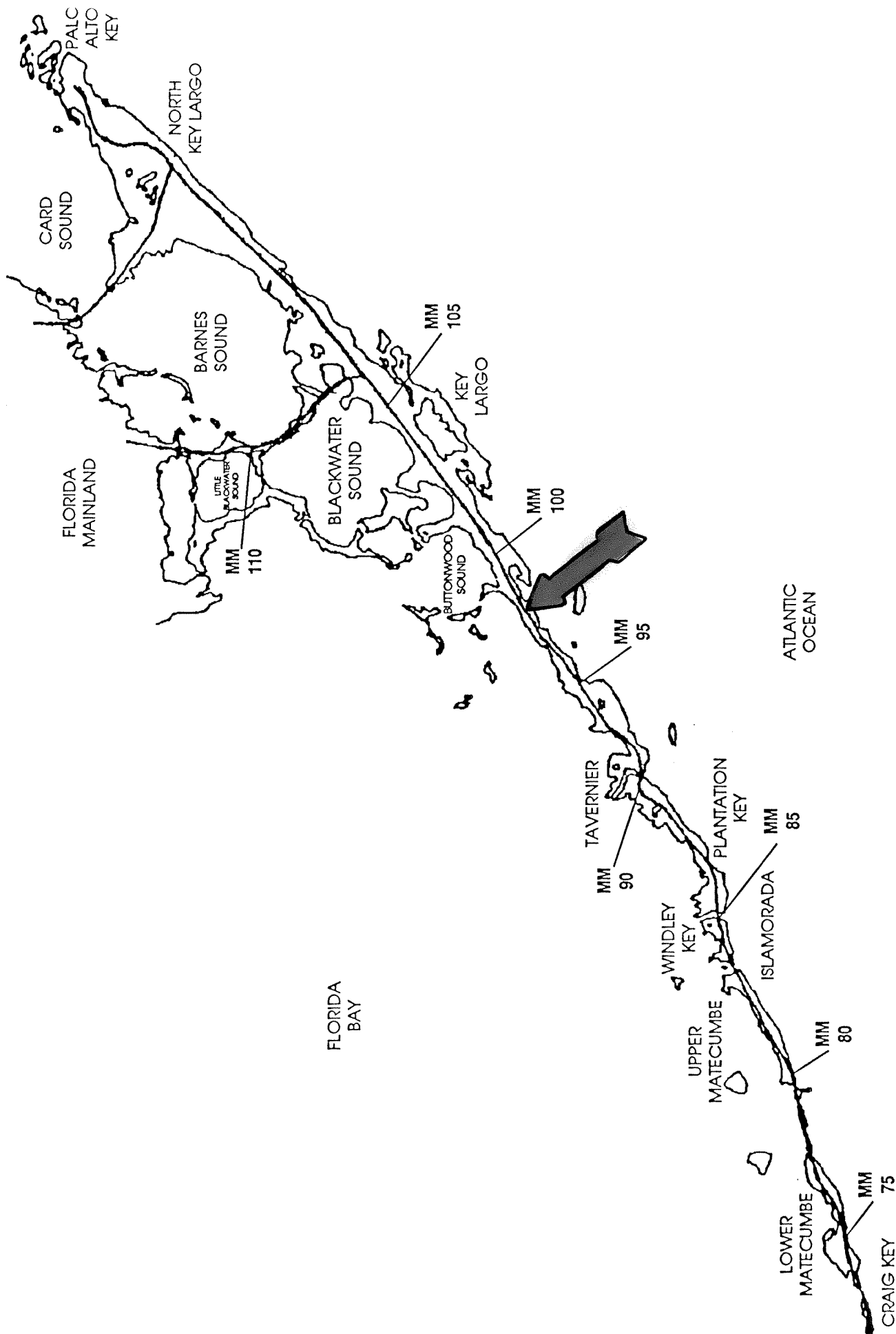


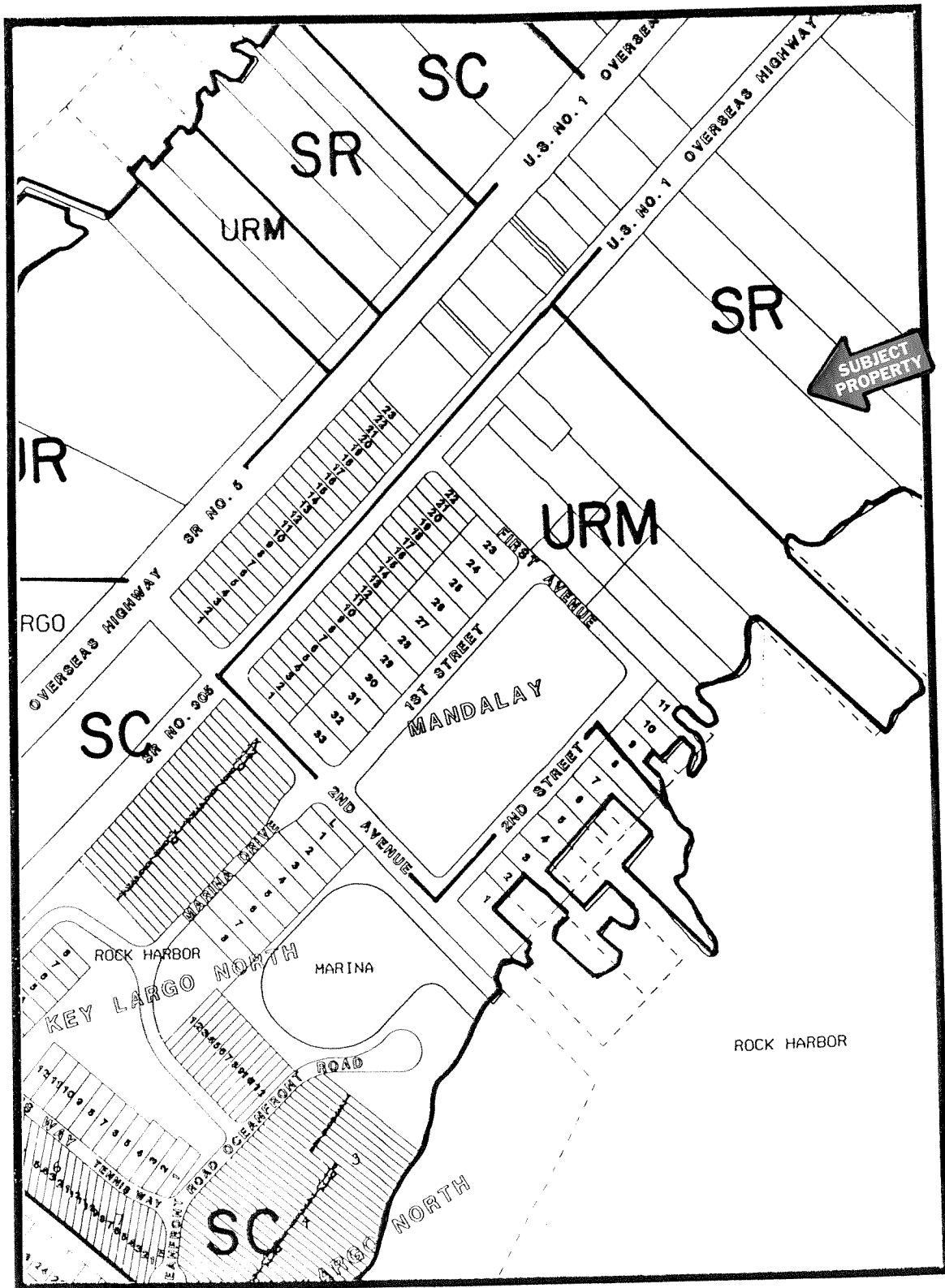
ATTACHMENT A

RE# 00090830-000000

A portion of Lot 8, according to the Plat of Government Lots 5 and 6 and the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 5, and Lots 1 and 2 of Section 6, Township 62 South, Range 39 East, made by George L. MacDonald and recorded in Plat Book 1, Page 59 of the Public Records of Monroe County, Florida more particularly described as follows:

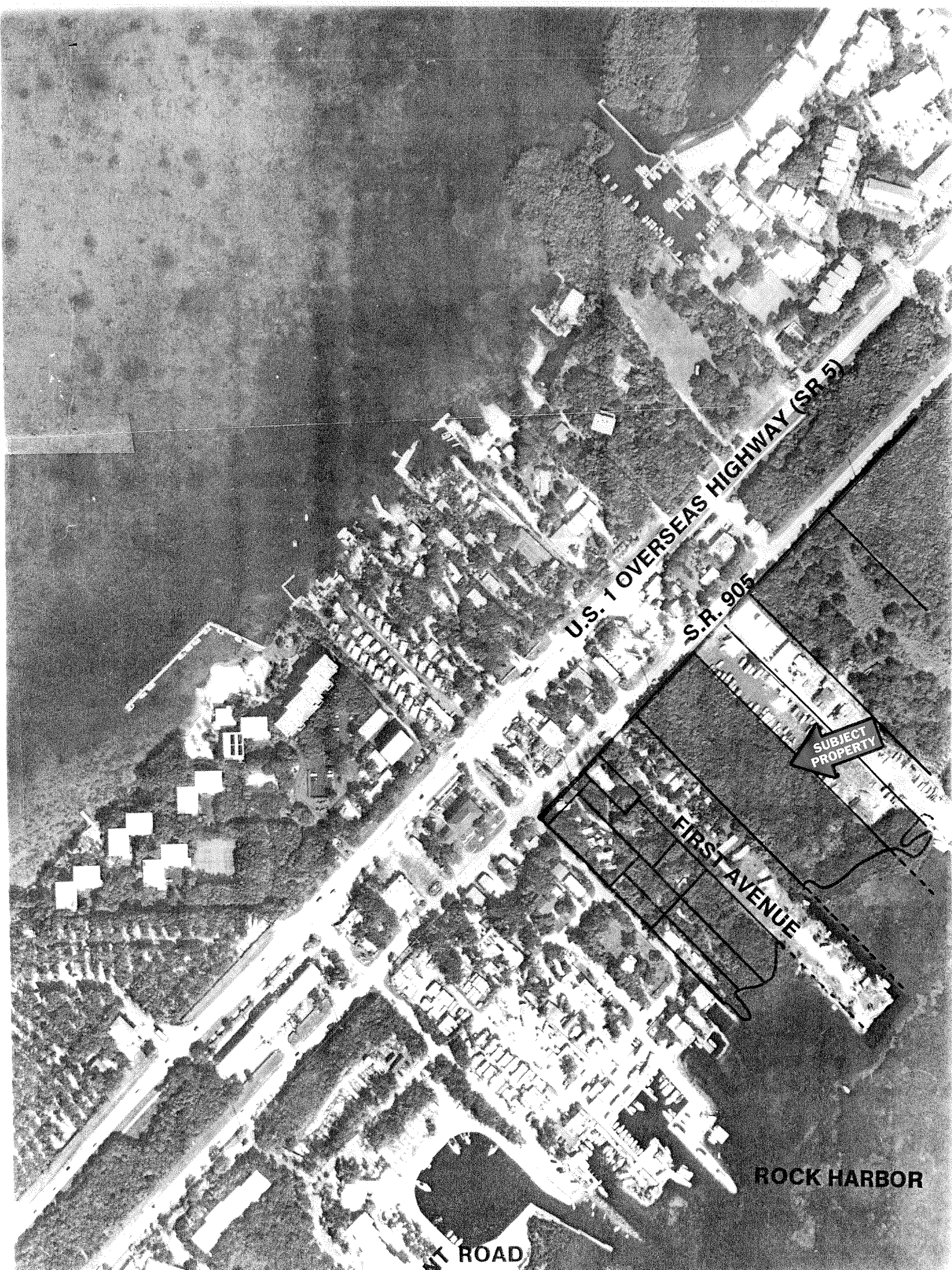
From the intersection of the dividing line between Lots 7 and 8, according to said plat recorded in Plat Book 1, Page 59, and the southeasterly right-of-way line of Old State Road 4A, run southwesterly on said southeasterly right-of-way line a distance of 110 feet to the point of beginning of the parcel hereinafter described; thence continue southwesterly along said southeasterly right-of-way line a distance of 225 feet; thence southeasterly at right angles to said southeasterly right-of-way line a distance of 700 feet more or less to the shore of the Atlantic Ocean; thence northeasterly meandering said shore to a point of intersection with a line which runs southeasterly from the point of beginning and at right angles to said southeasterly right-of-way line; thence northwesterly along said line a distance of 767 feet more or less to the point of beginning.





Mile Marker 98 Island Key Largo

Property Ettinger (RE#00090830-000000)



U.S. 1 OVERSEAS HIGHWAY (SR 5)

S.R. 905

SUBJECT PROPERTY

FIRST AVENUE

ROCK HARBOR

ROAD